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By: **Delegates Quinter and Mitchell**  
Introduced and read first time: February 13, 2004  
Assigned to: Judiciary

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 23, 2004

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Crimes - Fourth Degree Sexual Offense - Penalty for Registrable**  
3 **Subsequent Offender**

4 FOR the purpose of ~~altering the~~ establishing a penalty for a person convicted of a  
5 sexual offense in the fourth degree if the person ~~is an offender required to~~  
6 ~~register as a sexual offender for a prior crime~~ has previously committed a  
7 certain offense not arising out of the same incident; and generally relating to  
8 sexual crimes.

9 BY repealing and reenacting, with amendments,  
10 Article - Criminal Law  
11 Section 3-308  
12 Annotated Code of Maryland  
13 (2002 Volume and 2003 Supplement)

14 ~~BY repealing and reenacting, without amendments,~~  
15 ~~Article - Criminal Procedure~~  
16 ~~Section 11-701(a), (b), (d), (f), (g), and (h) and 11-704(a)~~  
17 ~~Annotated Code of Maryland~~  
18 ~~(2001 Volume and 2003 Supplement)~~

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
20 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Criminal Law**

2 3-308.

3 (a) A person may not engage in:

4 (1) sexual contact with another without the consent of the other;

5 (2) except as provided in § 3-307(a)(4) of this subtitle, a sexual act with  
6 another if the victim is 14 or 15 years old, and the person performing the sexual act is  
7 at least 4 years older than the victim; or

8 (3) except as provided in § 3-307(a)(5) of this subtitle, vaginal  
9 intercourse with another if the victim is 14 or 15 years old, and the person performing  
10 the act is at least 4 years older than the victim.

11 (b) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,  
12 A person who violates this section is guilty of the misdemeanor of sexual offense in the  
13 fourth degree and on conviction is subject to imprisonment not exceeding 1 year or a  
14 fine not exceeding \$1,000 or both.

15 (2) (I) AN OFFENDER REQUIRED TO REGISTER UNDER § 11-704 OF THE  
16 CRIMINAL PROCEDURE ARTICLE WHO SUBSEQUENTLY VIOLATES THIS SECTION IS  
17 GUILTY OF THE MISDEMEANOR OF SEXUAL OFFENSE IN THE FOURTH DEGREE AND  
18 ON CONVICTION ON CONVICTION OF A VIOLATION OF THIS SECTION, A PERSON WHO  
19 HAS BEEN CONVICTED ON A PRIOR OCCASION NOT ARISING FROM THE SAME  
20 INCIDENT OF A VIOLATION OF §§ 3-303 THROUGH 3-312 OR § 3-315 OF THIS SUBTITLE  
21 OR § 3-602 OF THIS TITLE IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS  
22 OR A FINE NOT EXCEEDING \$1,000 OR BOTH.

23 (II) IF THE STATE INTENDS TO PROCEED AGAINST A PERSON  
24 UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, IT SHALL COMPLY WITH THE  
25 PROCEDURES SET FORTH IN THE MARYLAND RULES FOR THE INDICTMENT AND  
26 TRIAL OF A SUBSEQUENT OFFENDER.

27 **Article - Criminal Procedure**

28 ~~11-701.~~

29 (a) ~~In this subtitle the following words have the meanings indicated.~~

30 (b) ~~"Child sexual offender" means a person who:~~

31 ~~(1) has been convicted of violating § 3-602 of the Criminal Law Article;~~

32 ~~(2) has been convicted of violating any of the provisions of the rape or~~  
33 ~~sexual offense statutes under §§ 3-303 through 3-307 of the Criminal Law Article for~~  
34 ~~a crime involving a child under the age of 15 years;~~

1           (3)     has been convicted of violating the fourth degree sexual offense  
2 statute under § 3-308 of the Criminal Law Article for a crime involving a child under  
3 the age of 15 years and has been ordered by the court to register under this subtitle;  
4 or

5           (4)     has been convicted in another state or in a federal, military, or Native  
6 American tribal court of a crime that, if committed in this State, would constitute one  
7 of the crimes listed in items (1) and (2) of this subsection.

8       (d)     "Offender" means a person who is ordered by a court to register under this  
9 subtitle and who:

10           (1)     has been convicted of violating § 3-503 of the Criminal Law Article;

11           (2)     has been convicted of violating § 3-502 of the Criminal Law Article or  
12 the fourth degree sexual offense statute under § 3-308 of the Criminal Law Article, if  
13 the victim is under the age of 18 years;

14           (3)     has been convicted of the common law crime of false imprisonment, if  
15 the victim is under the age of 18 years and the person is not the victim's parent;

16           (4)     has been convicted of a crime that involves soliciting a person under  
17 the age of 18 years to engage in sexual conduct;

18           (5)     has been convicted of violating the child pornography statute under §  
19 11-207 of the Criminal Law Article;

20           (6)     has been convicted of violating any of the prostitution and related  
21 crimes statutes under Title 11, Subtitle 3 of the Criminal Law Article if the intended  
22 prostitute or victim is under the age of 18 years;

23           (7)     has been convicted of a crime that involves conduct that by its nature  
24 is a sexual offense against a person under the age of 18 years;

25           (8)     has been convicted of an attempt to commit a crime listed in items (1)  
26 through (7) of this subsection; or

27           (9)     has been convicted in another state or in a federal, military, or Native  
28 American tribal court of a crime that, if committed in this State, would constitute one  
29 of the crimes listed in items (1) through (8) of this subsection.

30       (f)     "Sexually violent offender" means a person who:

31           (1)     has been convicted of a sexually violent offense; or

32           (2)     has been convicted of an attempt to commit a sexually violent offense.

33       (g)     "Sexually violent offense" means:

34           (1)     a violation of §§ 3-303 through 3-307 or §§ 3-309 through 3-312 of  
35 the Criminal Law Article;

1           (2)     assault with intent to commit rape in the first or second degree or a  
2 sexual offense in the first or second degree as prohibited on or before September 30,  
3 1996, under former Article 27, § 12 of the Code; or

4           (3)     a crime committed in another state or in a federal, military, or Native  
5 American tribal jurisdiction that, if committed in this State, would constitute one of  
6 the crimes listed in item (1) or (2) of this subsection.

7       (h)     "Sexually violent predator" means:

8           (1)     a person who:

9               (i)     is convicted of a sexually violent offense; and

10           (ii)    has been determined in accordance with this subtitle to be at  
11 risk of committing another sexually violent offense; or

12           (2)     a person who is or was required to register every 90 days for life  
13 under the laws of another state or a federal, military, or Native American tribal  
14 jurisdiction.

15 ~~11-704.~~

16       (a)     A person shall register with the person's supervising authority if the  
17 person is:

18           (1)     a child sexual offender;

19           (2)     an offender;

20           (3)     a sexually violent offender;

21           (4)     a sexually violent predator;

22           (5)     a child sexual offender who, before moving into this State, was  
23 required to register in another state or by a federal, military, or Native American  
24 tribal court for a crime that occurred before October 1, 1995;

25           (6)     an offender, sexually violent offender, or sexually violent predator  
26 who, before moving into this State, was required to register in another state or by a  
27 federal, military, or Native American tribal court for a crime that occurred before July  
28 1, 1997; or

29           (7)     a child sexual offender, offender, sexually violent offender, or sexually  
30 violent predator who is required to register in another state, who is not a resident of  
31 this State, and who enters this State:

32               (i)     to carry on employment; or

1                   (ii)       to attend a public or private educational institution, including a  
2 secondary school, trade or professional institution, or institution of higher education,  
3 as a full-time or part-time student.

4       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
5 effect October 1, 2004.